

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

MARCH 19, 2012

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

OPEN FORUM

Town Permits

Claire O'Hara of 16 Summit Avenue believes there are many people in town who are not abiding by existing zoning laws and are not obtaining permits when they should. This is a safety concern.

Recycling

Recycling Co-Ordinator Donna Kaehler informed everyone that North Smithfield has been chosen as one of two pilot communities for single stream recycling. Mailings will be going out shortly.

Narragansett Improvement

Kenneth Murphy of 4 Indigo Farm Road is now not averse to a possible settlement with Narragansett Improvement but the settlement would have to abide by town, state and federal regulations. He would like to see the Council come together to reach a decision.

Ernest Alter feels there has been misconduct on the part of public officials. He had numerous questions and criticisms of Mr. Yazbak and Mr. Nadeau. Mr. Alter accused Mr. Nadeau of failing to defend the town against frivolous lawsuits brought by Narragansett

Improvement.

Public Sector Unions

On another topic Mr. Alter stated that public sector employees should never have been allowed to unionize. Public sector union contracts and future pension benefits to new hires need to be suspended. Structural reforms need to be implemented to reconcile expenditures with the ability to pay.

Videotaping of Council Meetings

Eric Piette of 32 Greenwood Street would like to begin video recording Council meetings.

Narragansett Improvement

Attorney Patrick Dougherty, who represents the town for certain litigation, felt compelled to clarify that Mr. Nadeau has not failed to defend the town against Narragansett Improvement as he has not been charged with doing so. The comments by Mr. Alter were unfair with respect to that.

Mali Jones of 19 Indigo Farm Road asked that, as was done on the agenda of January 3, 2012, a more detailed explanation be given for any discussion in executive session of the Narragansett Improvement lawsuits.

As part of a group that has brought motions for intervention to court

regarding Rankin Estates, Ms. Jones stated the group is not opposed to development of the property but they are opposed to any settlement that would allow development that does not comply with all town, state and federal subdivision and land use laws.

REGULAR MEETING

The regular meeting began at 7:21 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mrs. Charest. Town Administrator Hamilton and Town Solicitor Nadeau were also in attendance.

EXECUTIVE SESSION

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 7:22 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation to discuss International Brotherhood of Police Officers contract negotiations.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to come out of executive session at 7:43 P.M. and to seal the minutes. No motions were made and no votes were taken.

PRESENTATION OF AUDIT FOR FISCAL YEAR ENDING JUNE 30, 2011

Ms. Debbie Mitchell of Braver, P.C. gave a brief overview of the audit.

March 19, 2012

MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski, and voted unanimously on an aye vote to accept the audit report as presented by Braver P.C. and Finance Director Brian Silvia.

PAYROLL PROCESS FOR SCHOOL DEPARTMENT/MUNICIPAL OFFICES

Mr. Lindberg was unable to attend this evening but he expects to have one more meeting with the town's finance department and the school's business department before a final draft is completed.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to table the matter to the May 7th Council meeting.

CELL TOWER

Mr. Lindberg had questioned if there would be any interest in forming a group that might include a Council member, a School Committee member, the Superintendent or his designee, the Administrator or her designee, someone from the finance office, attorneys or anyone who may have some experience in this area.

Ms. Hamilton noted that Requests for Proposals had been sent out

twice with no responses received either time. She is happy to continue to work on it but, at this point, does not know in which direction to turn.

Mrs. Charest asked to keep the dialogue going with Mr. Lindberg.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to table this discussion to May 7th.

IT PROCESS FOR TOWN COMPUTERS

School Department Technology Director Eric Butash had no new update at this time and had asked that this be continued to a future meeting.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to continue this discussion to April 16th.

PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT FOR WETLAND SETBACKS FOR ONSITE WASTE WATER TREATMENT SYSTEMS, (OWTS), BUILDINGS AND IMPERVIOUS SURFACES

A meeting was supposed to be held by Ordinance Development Commission member Caroly Shumway and RI Builders Association Executive Director John Marcantonio but that did not happen due to the lengthy serious illness of a member of Mr. Marcantonio's family.

Town Planner Robert Ericson stated that RI DEM is going through the

whole process with the Rhode Island Builders Association on consistency throughout the state. Because there is much that is in turmoil at present, Mr. Ericson suggested the hearing be continued to April 16th to give all parties time to regroup.

MOTION by Mr. Yazbak and seconded by Mr. Zwolenski to table the hearing to April 16, 2012.

Since Lorraine Joubert, Director of RI Nonpoint Education for Municipal Officials, was present this evening, Mr. Zwolenski asked that she be allowed to speak.

Mr. Yazbak withdrew his motion and Mr. Zwolenski withdrew his second.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 1 on an aye vote (Mr. Zwolenski voted no) to continue the hearing to April 16, 2012.

MOTION by Ms. Alves, seconded by Mr. McGee, and voted 4 to 1 on an aye vote (Mr. Yazbak voted no) to reconsider the motion to continue the hearing.

MOTION by Mr. Zwolenski and seconded by Ms. Alves to continue the public hearing to April 16, 2016. Mr. Yazbak was the lone aye vote and the motion failed 4 to 1.

March 19, 2012

Ms. Joubert was involved in drafting the ordinance several years ago and was invited to review and comment on the current version by the Ordinance Development Committee. She offered several revisions.

Ms. Joubert commented that state agencies establish minimum standards. Towns have primary authority for land use decisions and are responsible for managing associated impacts. Planning, zoning and subdivision enabling legislation provide specific authority and encourages creative methods to avoid and manage impacts at the town level. The RI Wetland Act is more than 40 years old. Current research supports the need for larger wetland buffers, particularly for sensitive and high quality waters and large scale development projects. Local wetland protection is a standard good land use practice, widely used and accepted by RI communities. At least 18 towns have wetland buffer ordinances that establish setbacks from either OWTS or from buildings, impervious, and land disturbance, or both. Most were adopted years ago. They are either applied townwide or in watershed protection areas. The current draft is very similar to but much less restrictive than South Kingstown's. Ms. Joubert does not believe that a local ordinance buffer would hinder development. The process allows the town to review a project and

recommend changes to reduce or avoid wetland impacts. On lots of record, approvals with special conditions are almost always granted; very few applications are denied. Natural wetland buffers help store stormwater, control nuisance flooding, and protect the town's roads, right of ways and other infrastructure. North Smithfield has already taken proactive steps to protect critical water resources, including low density zoning in the Woonsocket Reservoir Watershed, recent zone changes in that area, and other proposed ordinance changes.

When questioned by Mr. Zwolenski, Ms. Joubert explained that if lots of record fall under the ordinance and if the owner is constructing a major addition that would infringe upon the buffer, then they would have to go before the zoning board for a special use permit or variance. The board would review it to make sure that the work was kept as far back as possible. They typically require conditions such as ensuring erosion controls are adequate and revegetating the buffer that is remaining after construction. This protects the property owner and neighbors from flooding damage.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to continue the public hearing to April 16, 2012.

CONSENT AGENDA

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to approve the following: 1.) Minutes of

February 21 and March 5, 2012; 2.) Payment of bills — General Fund - \$139,664.44; Sewer - \$248,630.54; Water - \$455.93; School Department - \$1,440,455.00 and Fire Department - \$195,147.00 for a total of \$2,024,352.91; 3.) Budget Committee minutes for February 11, 13 and 23 & March 1 and 7, 2012; 4.) Historic District Commission minutes for July 18, November 21 and December 19, 2011; 5.) Ordinance Development Committee minutes for February 9 and 15, 2012; 6.) Planning Board minutes for January 5 and February 2, 2012; 7.) Animal Control Monthly Report for February 2012; 8.) NSF&RS, Inc. Monthly Incident Report for February 2012; 9.) Resolution Pertaining to Contract Continuation from the City of Woonsocket; 10.) Resolution Pertaining to Bus Monitors from the City of Woonsocket; 11.) Resolution Requesting Amendment to RIGL §17-11-1, Voting Districts and Officials from the Town of Jamestown; 12.) Resolution Supporting H7561, Use of Post Office Boxes from the Town of Burrillville and 13.) Request for Support Re: Amending RIGL §34-27-6, Foreclosures from Senator Moura.

2ND READING ORDINANCE AMENDMENT RE: SOIL EROSION AND SEDIMENT CONTROL AND STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to correct Section 18.8 Plan Review as follows: “Within ten (10) working days of the receipt . . .”

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted

unanimously on an aye vote to correct Article V, Section 18.11(8) to read “These measures shall be consistent with the requirements of the Stormwater Management Ordinance and shall reflect best practices as described in

March 19, 2012

the most recent RIDEM Stormwater Design and Installation Standards Manual.”

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to strike the following line indicated in brackets in Section 18.12: “[text from RIDEM Stormwater Design and Installation Standards Manual]”

MOTION by Mr. Yazbak and seconded by Mr. Zwolenski to continue the second reading to April 2nd with a clean version of the ordinance to be provided to the Council members.

Roll call: Ms. Alves – no; Mr. McGee – no; Mr. Yazbak – yes; Mr. Zwolenski – no; and Mrs. Charest – yes. The motion failed 3 to 2.

Mr. Nadeau pointed out another correction that should be made.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to strike the following from Section 18.2(3) (National Research Council, 2008, Urban Stormwater

Management in the United States.)

MOTION by Mr. Zwolenski and seconded by Ms. Alves to approve the ordinance as amended as the second reading.

Roll call: Ms. Alves – yes; Mr. McGee – yes; Mr. Yazbak – no; Mr. Zwolenski – yes; and Mrs. Charest – no. The motion carried 3 to 2.

**1ST READING ORDINANCE AMENDMENT RE: PUBLIC HEARINGS
PRIOR TO APPROVAL OF ANY COLLECTIVE BARGAINING
AGREEMENT OR PUBLIC UNION CONTRACT**

Mr. Yazbak presented this ordinance for a first reading. It had been presented before but, in error, there was no line for the Town Administrator to sign if she so chooses.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on an aye vote to schedule the second reading for April 2, 2012.

OUTDOOR SOUND SYSTEM PERMIT - K. EAGAN

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to approve an outdoor sound system permit for Mr. Kevin A. Eagan of 68 Sayles Hill Road on May 19, 2012 from 6:00 p.m. to 12:00 a.m.

Mr. Eagan expects to invite 60 to 70 people for a college graduation

party. He has a 400 foot driveway for parking but, in addition, Mr. Eagan will be asking the owners of the Sayles Hill Rod & Gun Club to allow parking on their property.

DEVELOPMENT OF RENEWABLE ENERGY SYSTEM

Craig Dwyer, Chief Executive Office of MainLine Solar, LLC addressed the Council. He is proposing the design, development, financing, procurement and construction of a solar energy generation system at Landfill and Resource Recovery Inc.'s 50-acre capped landfill off Old Oxford Road and the purchase by the Town of North Smithfield of the electrical energy produced from this project.

Mr. Dwyer commented this project will require an interconnection with National Grid's infrastructure. He would like to complete all the feasibility studies needed to arrive at a bid price. Mr. Dwyer asked the town to consider payment in lieu of taxes in order to get the project off the ground.

When asked by Mr. Yazbak what would be the equipment value that would have to be put on site to produce a three megawatt-size facility, Mr. Dwyer responded it would be between \$8.5 and \$9 million.

Mr. Zwolenski asked where the solar panels were manufactured and was told it was done in China.

Mrs. Charest asked about long-term employment.

Mr. Dwyer answered there would be 20 to 25 construction jobs just during the construction phase and then there would be possibly five

March 19, 2012

administrative and three maintenance and operation positions that would be there for the life of the system.

Mr. McGee asked if the company had built on a superfund site before.

Mr. Dwyer explained that there is an area of about twelve or thirteen acres just south of the southern face of the landfill where the equipment will be sited.

Mr. Ericson stated there are several issues that would need to be worked on including tax exemptions and payments in lieu of taxes and he did not see this happening prior to the March 31st deadline Mr. Dwyer was using.

Mr. William Juhr of 1558 Victory Highway believed this project may put the town at risk with the migration of contaminated materials. The EPA needs to be notified before moving forward.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to authorize the Town Planner and the

Town Solicitor to enter into preliminary discussions of feasibilities and to develop information and gather facts to bring back to the Council at their earliest convenience based upon the recommendation of the Town Planner.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote at 9:55 P.M. to extend the meeting to 10:30 P.M.

AWARD OF BID RE: MIDDLE SCHOOL FENCING

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 0 on an aye vote (Mrs. Charest had stepped out of the room) to award the bid for the installation of chain link fencing around the softball field to North Smithfield Fence, Inc. in the amount of \$7,840.00 based upon the recommendations of the School Building Committee and the Finance Director.

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted 4 to 0 on an aye vote (Mrs. Charest had stepped out of the room) to award the bid for installation of post and rail fencing around the leach field in the amount of \$8,550.00 to North Smithfield Fence, Inc. based upon the recommendations of the School Building Committee and the Finance Director.

DOCUMENT ARCHIVING

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted

unanimously on an aye vote to approve the Cost Proposal for Document Archiving provided by Joe Casali Engineering, Inc. at a cost of \$0.50/sheet. Total cost is expected to be approximately \$600.00.

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to authorize the Town Administrator to sign the proposal.

“WE THE PEOPLE” FUNDING

In a memo to the Council, Mr. Silvia recommended expensing the \$2,500 approved at the prior meeting through the We The People line item within the Grants & Contributions section of the budget. The Council can authorize the transfer of these budgeted funds from a selected account at some point in the fourth quarter.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to table this matter to April 2, 2012.

COMPETITIVE BIDDING FOR ENGINEERING OF SEWERS

Mr. McGee commented there has been one engineering company providing services for several years. He would like to see the town look into other firms to see if there might be better pricing available.

MOTION by Mr. McGee, seconded by Ms. Alves, and voted unanimously on an aye vote to seek a second bidder on sewer

projects.

March 19, 2012

EXECUTIVE SESSION

MOTION by Mr. Yazbak, seconded by Ms. Alves, and voted unanimously on an aye vote to enter into executive session at 10:07 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation to discuss 1.) Narragansett Improvement Company, et als v. Jill Gemma et als, C.A. PC08-7468, 2.) Narragansett Improvement Company, et als v. Vincent Marcantonio, et als, C.A. No. PC08-6504, 3.) Town of North Smithfield v. Narragansett Improvement Company, et als, PC08-3674 and 4.) Appointment of Substitute Assistant Solicitors for Police Prosecution Cases.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on an aye vote to come out of executive session at 10:29 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote at 10:30 P.M. to extend the meeting to 11:00 P.M.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to reenter executive session pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation to discuss the same topics as listed above.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to come out of executive session at 10:59 P.M. and to seal the minutes. No motions were made and no votes were taken.

Appointment of Substitute Assistant Solicitors for Police Prosecution Cases

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to table the appointment of substitute assistant solicitors for police prosecution cases.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, Ms. Alves and Mr. McGee, and voted unanimously on an aye vote to adjourn at 11:00 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk